



Draft Minutes of the State Board of Health

November 14, 2012

**Cherberg Building, Senate Hearing Room 3, Capitol Campus
304 15th Ave S.E., Olympia, WA 98501**

State Board of Health members present:

Kelly Cooper (for Mary Selecky)
Keith Grellner, Vice-Chair
Maria Hernandez-Peck, PhD
Stephen Kutz

Donald Oliver
Patricia Ortiz, MD
The Honorable Donna Wright
Diana T. Yu, MD, MSPH

State Board of Health members absent:

The Honorable John Austin, PhD, Chair

James Sledge, DDS

State Board of Health staff present:

Michelle Davis, Executive Director
Desiree Robinson, Executive Assistant
Christy Curwick, Health Policy Analyst
Yris Lance, Community Relations Liaison

Gordon MacCracken, Communications Consultant
Ned Therien, Health Policy Analyst
Tara Wolff, Health Policy Analyst
Lilia Lopez, Assistant Attorney General

Guests and other participants:

Matt Kadlec, Department of Ecology
Pamela Lovinger, Department of Health
Bailey Stober, Commission on African American Affairs
Allene Mares, Department of Health
Michele Roberts, Department of Health
Chris Blake, House of Representatives
Audrey Adams, Washington Action for Safe Water
Brad Owen, Lieutenant Governor
Lanae Aldrich, Department of Health
Alli Larkin, Washington Action for Safe Water

Earl Fordham, Department of Health
Lynn Albin, Department of Health
Chas DeBolt, Department of Health
Lin Watson, Department of Health
Ann Clifton, Mercury Awareness Team
Chuck Matthews, Department of Ecology
Kyle Adams, Renton
Keith Zang, Department of Health
Maryanne Guichard, Department of Health

Keith Grellner, Vice-Chair, called the public meeting to order at 9:33 a.m. and read from a prepared statement (on file).

1. APPROVAL OF AGENDA

Motion: Approve November 14, 2012 agenda

Motion/Second: Yu/Wright. Approved unanimously

2. ADOPTION OF OCTOBER 10, 2012 MEETING MINUTES

Motion: Approve the October 10, 2012 minutes

Motion/Second: Yu/Ortiz. Approved unanimously

3. BOARD ANNOUNCEMENTS AND OTHER BUSINESS

Michelle Davis, SBOH Executive Director, reported she attended the Joint Conference on Health in Wenatchee in mid-October. While there, she attended a session on federal sequestration, which indicated things were still unsettled. She reported on participating in a national accreditation team site visit meeting with the Department of Health. The accreditation team expressed interest in the partnership between the Board and the Department. She mentioned recent correspondence from Dr. Osmunson about water fluoridation and a staff response. She said the Board's Environmental Health Committee met with staff of the Department to discuss opening the Board's rule on *Vibrio parahaemolyticus* control for molluscan shellfish. She said the EH Committee recommended opening the rule for possible revision to better protect public health. She plans to sign a CR-101 to open this rule revision. Diana T. Yu, SBOH Member, commented that past revisions of shellfish rules have been done in a cooperative manner between the Department and the shellfish industry, and have gone smoothly.

4. DEPARTMENT OF HEALTH UPDATE

Kelly Cooper, Acting Policy Director for the Department of Health and designee for Member Mary Selecky, reported the Department has a role in implementing two initiatives that passed in November. The Department will conduct rule making to revise the marriage license form to account for same-sex marriages. The Department also has a small role regarding the marijuana initiative, in cooperation with the Liquor Control Board. She said the Department could be hit hard by federal budget sequestration, which would result in a cut to the Department's budget of between 8.2 and 8.4 percent, or about \$25 million. She mentioned the Department has participated in an interagency group trying to determine causes of ocean acidification. One recommendation from the group is to investigate ways to reduce nitrogen contamination of seawater from on-site sewage systems. She said November 15 would be date of the 37th annual Great American Smokeout, again encouraging people to quit smoking.

5. HEALTH DISPARITIES COUNCIL UPDATE

Stephen Kutz, SBOH Member, introduced this agenda item. Christy Hoff, SBOH Staff, provided an update on the activities of the Governor's Interagency Council on Health Disparities. She acknowledged Stephen Kutz's participation on the Council and its advisory committees. She briefly mentioned the focus of the Council's three advisory committees and an additional workgroup. Ms. Hoff said that the Council is taking a different approach for the 2012 update of its plan and focusing on what state agencies could do, especially those represented on the Council, without additional legislative action or funding. The entire presentation is included in Tab 05 of the Board packet.

Maria Hernandez-Peck, SBOH Member, asked if Board members could get a copy of the updated action plan. Ms. Hoff said the Council would discuss and make final decisions on the plan at its December 6 meeting. After that, the report will be available on-line. Ms. Hoff said she would send Board members a web link so they could easily find the report when it gets posted. Member Yu commented on the overall health disparities of individuals who suffer behavioral health problems. Ms. Hoff said the focus of the advisory committee was disparities in behavioral health outcomes by race/ethnicity and gender rather than the different health disparities experienced by people with behavioral health disorders. Member Kutz noted the lack of detailed data and research on certain minority groups. He also reinforced the need for a more diverse health work force. Don Oliver, SBOH Member, commented he has a particular interest in environmental justice issues. He said he is involved with an organization that believes poverty is the main cause of health disparities and said

he could use some guidance on how the group could implement local strategies to prevent poverty. Patricia Ortiz, SBOH Member, commented that previous Council recommendations focused on education. She noted that the work on Adverse Childhood Experiences (ACES) and early learning might fit together. She commented on the lack of Latino providers in Eastern Washington. Ms. Hoff noted that early learning is a theme across many of the recommendations. Vice-Chair Grellner asked for an explanation of the term “data disaggregation.” Ms. Hoff said the Council would like to see race/ethnicity categories broken down as finely as possible. For example, the Asian and Pacific Islander category is very broad and may mask disparities seen by certain subpopulations. Member Hernandez-Peck commented that the Council might want to look at documenting different ways to provide effective behavioral health services to a range of ethnic groups. Member Kutz said some health services offered to specific ethnic groups could be harmed by new requirements that all health care services be evidence-based. Ms. Hoff said the behavioral health disparities advisory committee recommended that evidence-based requirements provide enough flexibility to allow them to be tailored to specific subpopulations. Member Kutz said he will talk to the National Institutes of Health in the coming weeks to ask for more support for research on traditional ethnic medicine. Member Kutz thanked Ms. Hoff for her work supporting the Council.

The Board took a break at 10:43 a.m. and reconvened at 11:01 a.m.

6. TRAINING—OPEN PUBLIC MEETINGS ACT

Ms. Davis introduced this agenda item. Lilia Lopez, Assistant Attorney General, provided training on the Open Public Meetings Act (OPMA). Her presentation is under Tab 06 in the Board’s packet. She said laws such as the OPMA should be liberally construed. If you think it applies, it probably does. She said the act applies to the work of the Board’s committees if they are functioning for the whole Board. However, rule making activities are exempt. Executive sessions are also exempt for certain purposes, such as to discuss personnel matters or litigation. She said there could be penalties for violating the OPMA, including any actions taken at the meeting becoming null and void. Ms. Lopez said the Board’s by-laws have a good meetings section that is consistent with the OPMA.

Members Kutz and Hernandez-Peck asked about e-mail conversations. Ms. Lopez said e-mails between Board members are acceptable, but what should be avoided are conversations using “reply all.”

7. SBOH/DOH MEMORANDA OF UNDERSTANDING (MOU)

Ms. Davis explained that the Board’s relationship with the Department is guided by several brief statutes. The statutes are not detailed enough to explain such things as what “technical staff support” means. Therefore, the relationship is further guided by a memorandum of understanding (MOU). The existing MOU was adopted in December 1999. It does not reflect several important statutory changes since then, such as formation of the Health Disparities Council and collective bargaining agreements. Ms. Davis said she has been working with Gregg Grunenfelder and Kelly Cooper at the Department to develop a draft revision of the MOU. The draft is included in materials under Tab 07 of the Board’s packet. She said there is more detail in the draft revision than in the old MOU. She described proposed changes in the draft new MOU. One she highlighted was elimination of a statement about the Board’s budget being adjusted for inflation. This has been removed because budgets are determined by the Legislature. Instead, the draft has a statement about the Board’s budget needs coming out of discussions among the Chair, the Executive Director, and the Department’s Deputy Secretary. Another change is more detail about staff roles at both the Board and the Department. Once the Board accepts a draft MOU, she will work with the chair to

finalize the draft with the Department's leadership and hopes to gain acceptance by both parties. Ms. Davis asked Board members to send her their comments on the draft MOU revision within the next week or so.

Member Kutz asked about preparation of the budget. Ms. Davis explained the Department is given a certain amount of money by the Legislature to support the Board. State budget cuts in recent years resulted in the past executive director cutting the number of meetings to stay within the budget. Ms. Davis said new language in the MOU might provide a better framework for negotiating with the Department about the needs of the Board. Member Yu commented that the Board tried to hold meetings electronically in recent years, but found too many problems with the technology. Member Kutz asked about "necessary technical support" to the Board and where it was discussed in the draft MOU. Ms. Davis explained that a definition was added to the draft. It is discussed in various sections of the draft for such things as administrative, human resources, information technology, and rule development services. Member Kutz suggested adding some headings to make the topics easier to find. Member Yu asked if the Department could take away some of the Board's staff who are technically Department employees assigned to the Board. Ms. Davis said yes, and the Board has lost positions because of past budget cuts. She said, last year, the Department replaced one employee working for the Board with another one with more seniority who was subject to a reduction in force action.

***Motion:** The Board directs staff to develop a final Memorandum of Understanding between the Board and Department, in close consultation with the Chair. The Chair is authorized to negotiate final agreement and approve the MOU on behalf of the Board.*

***Motion/Second:** Yu/Kutz. Approved unanimously*

8. LEGISLATIVE PREVIEW

Ms. Davis described some things that might influence the 2013 legislative session. She said there would be significant turnover of members in the Legislature. Democrats still hold majorities in both houses. The split in the Senate is close, which is likely to result in efforts to build coalitions. She said the budget would again be the main problem for the Legislature. There is a projected shortfall of about 1 billion dollars between revenues and funding State programs for the next biennium. In addition, the State Supreme Court's McCleary decision ordering the State to make up the shortfall in funding basic education is expected to cost another billion dollars. If the federal government does not reach a new agreement by this coming January, sequestration also is likely to result in significant reductions to State-run programs. She said she does not know which state priorities, after education, will be highest in the coming biennium. Governor Gregoire's draft budget is expected to be released on December 20. Governor Elect Inslee's priorities will become clearer after he takes office on January 16 and releases his draft budget. She said there will be no easy choices to balance the budget. The 2013 session will begin the second Monday in January (the 14th). It will be a long session, 105 days. She said she should have more information about possible legislation at the Board's next meeting, January 9.

Ms. Davis pointed out the Board's Policy 2001-001 about communicating with the Legislature about Legislative Issues Relevant to the Board and the Board's Statement of Policy on Possible 2012 Legislative Issues. She explained the 2012 statement and asked the members to provide her comments for developing a statement for 2013, using the 2012 document as the starting point. She recommended several changes to the issues statements, including reconsidering the example of supporting smoke-free environments for young children in automobiles. These materials are under Tab 08 in the Board's packet.

Member Kutz asked staff to track issues that might improve mental health parity with other health care. Member Yu commented about her interest in controlling various products that could be toxic for children. She asked about the status of the Board's school environmental health rule revision. Ms. Davis and Mr. Therien explained that the school rule revision would go into effect in July of 2013, contrary to a legislative directive, unless the Board votes again to delay the effective date. Member Yu also commented on considering adding healthy homes to the topics of interest to the Board, such as for mold concerns. Ms. Davis said staff would discuss her concepts with her to develop some language for the 2013 document, maybe under the built environments heading.

The Board recessed for lunch at 12:09 p.m. and reconvened at 1:31 p.m.

9. PUBLIC HEARING - HIV TESTING , WAC 246-100-207

Member Yu introduced this hearing and reminded the Board members they had been briefed on this rule revision proposal at their October 2012 meeting. Tara Wolff, Board Staff, explained materials under Tab 09 in Board member packets, including the CR-102 for this rule proposal. She indicated that only one comment had been received during the comment period. The comment was supportive and came from Lifelong AIDS Alliance. Maria Courogen, Director of the Office of Infectious Disease of the Department of Health, explained the importance of identifying individuals who are infected with Human Immunodeficiency Virus (HIV) so they can begin treatment. Awareness of infection can also help reduce risky behaviors for transmission to others. Receiving treatment also reduces risk of transmission. The proposed rule revision does not affect the informed consent statute (RCW 7.70.060), but makes a small change to the existing rule by removing the word "informed" before "consent" in WAC 246-100-207 for consistency with terminology in the underlying statute (RCW 70.24.330). The intent of the proposed rule is to emphasize that consent for HIV testing may be given either verbally or in writing.

Member Yu said she presented the proposal to the local health officers' forum at its October meeting. She said the local health officers consider the proposed rule change acceptable.

No public testimony was given at the hearing.

Motion: *The Board adopts the revisions to WAC 246-100-207 as published in WSR 12-20-083.*

Motion/Second: *Ortiz/Yu. Approved unanimously*

10. PERTUSSIS UPDATE

Member Yu, introduced an update on this year's whooping cough (pertussis) epidemic. Chas DeBolt, an epidemiologist with Department of Health, reported on Washington pertussis illness data. She reminded the Board she last spoke to it about this epidemic in June 2012, when the number of cases had taken a large upswing. Weeks 20 and 30 were the peak weeks in the number of reported pertussis cases in Washington State, but we have seen a down-trend through week 43 on the graph. The number of reported cases per week has now fallen to about the same as this time last year, which is still elevated over the baseline average, which was established beginning in 2005 and contains 83 months of Washington State data. The peak number of cases per week occurred in spring 2012. There have been about 5,000 cases that tested positive or were confirmed this year. The highest incidence has been in babies under one year old but the highest number of cases has been in the 5-18 year olds. The percent increase in cases for 10-13 year olds has been dramatic this year. Ms. DeBolt said there was a change in the manufacturing technique for vaccines from whole-cell to

acellular about 15 years ago to reduce adverse vaccine reactions. During this epidemic, more than 70 percent of children with pertussis were up to date on their pertussis vaccinations. The data seem to indicate reduced residual immunity from the newer acellular vaccines. She has discussed this data with the U.S. Centers for Disease Control and Prevention (CDC). The Department is working with CDC on a vaccine effectiveness study. (For more presentation, details please refer to tab 10.)

Jeff Duchin, Public Health - Seattle and King County, joined the meeting by telephone. He said health care professionals nationally are seeing an increasing number of cases of whooping cough. There have been increases in the rates of pertussis in 48 states in 2012 compared to 2011. There appears to be an association with the advent of the newer acellular pertussis vaccines in the 1990s. We have seen increases in 7-10 year olds since around 2005. The duration of protection may be a problem with acellular pertussis vaccines. It suggests there may be a need to improve the nature of pertussis vaccines or to change the way pertussis vaccines are given. Because of the apparent lack of long-term immunity from vaccinations, in October 2012 the CDC Advisory Committee on Immunization Practices (ACIP) came out with a recommendation that women get a pertussis booster during each pregnancy to help protect their newborns regardless of their vaccine history. He said, before the development of pertussis vaccines, the disease was so common that almost all children became infected. He said before pertussis vaccines, there was an annual average of 200,000 cases and 4,000 deaths per year from the disease in the U.S. He said, even though the vaccines do not provide total protection, they have cut the number of annual pertussis cases to under 20,000 and have cut infant deaths to the double digits.

Member Yu asked whether any countries are still using whole-cell vaccines. Ms. DeBolt responded she thinks there may be some places in Africa still use that type. Member Kutz asked if vaccination rates have generally improved for school-age kids since this outbreak started. Dr. Duchin said that 90 percent of kids are already up to date on their vaccines. Ms. DeBolt commented that data out of California indicate young children who have been fully immunized against pertussis are about nine times less likely to get the disease. In May 2013, we will have more data on school immunization rates. Member Yu asked Dr. Duchin if he could predict when ACIP might come out with changes in childhood pertussis vaccination recommendations. He said he could not predict that, but did not anticipate changes without additional large-scale studies. However, it was obvious to ACIP, based on antibody levels, to recommend women get a pertussis booster during each pregnancy in the third trimester. He said cocooning newborns has not been effective.

11. BRIEFING – CENTRAL WASHINGTON WILDFIRES (taken out of order at 1:40)

Don Oliver, Board Member introduced this agenda item with some photographs illustrating the heavy smoke from wildfires in Central Washington during September and October 2012. Ned Therien, Board Staff, introduced the two guest speakers. Matthew Kadlec, toxicologist with the Department of Ecology, presented data on the cause and effect of the wildfire episode, fine particulate matter monitoring, and wildfire smoke epidemiology based calculations for Wenatchee. He said of most concern for human health from wildfire smoke are particulates smaller than 2.5 micrometers. Judy Bardin, epidemiologist with the Department of Health, presented information about response activities of the state and local health agencies, people most susceptible to wildfire smoke, immediately available data on student absences in four counties, and reports from some Eastern Washington hospitals regarding respiratory health effects. She said, unfortunately, the data do not include reports from Wenatchee area hospital. For more details on these two presentations, please refer to materials under Tab 11.

Member Ortiz commented that she lives in the Wenatchee valley and works in downtown Wenatchee. She noted there was no particulate monitoring station in Cashmere, which appeared to have a particularly high concentration of smoke. She said the Cashmere School District closed for six days during this event. She said the wildfires coincided with the peak of the harvest season. Many orchard workers were out in the smoke and would find it impossible to wear masks while working. She suggested orchard workers be monitored for longer-term effects. Member Oliver commented that Wenatchee is at a higher elevation than the valley and air stagnation at night affected the valley most. He said he will talk to Mr. Kling about trying to get the area hospitals to work better with the health department. Member Yu asked why monitoring continued for only two weeks after the fires ended. Dr. Bardin explained that, according to the literature, negative effects of such fires last only about a week. She said the health department included data for an additional week. She said such high levels of smoke might produce longer-term effects. Member Kutz asked about the use of a clean air shelter. Dr. Bardin explained that, according to the Chelan-Douglas environmental health director (Barry Kling), the clean air shelter for the most vulnerable was set up in a town some distance from the wildfires to ensure that the air was clean enough for the mechanical air cleaning equipment to work properly. It took a while to get the air cleaning equipment and to set up that shelter. That shelter might have been under-used because the most vulnerable people had already left the area by then. Mr. Kadlec added there was fluctuating air quality during the latter part of the wildfire period, which might have affected people deciding to go to the clean air shelter. Dr. Bardin noted that this was the first time a clean air shelter had been set up in this state and it was difficult to do.

12. BRIEFING – DEBRIS FROM JAPAN'S 2011 TSUNAMI

Vice-Chair Grellner introduced this agenda item about tsunami debris. Mr. Therien introduced Earl Fordham, (substituting for Clark Halvorson) speaking for the Department of Health with Lynn Albin in the audience to help answer any questions. Mr. Fordham began the presentation with an explanation of the Office of Radiation Protection's mission. He briefly described the earthquake-generated tsunami that hit Japan in March 2011 and subsequent nuclear reactor failures. He explained the debris from the tsunami washed out to sea before several nuclear reactors failed. He said there is great uncertainty about what debris will reach our shores. In other disasters, debris has sunk in the ocean. The Department has been checking beach debris for radiation and finding no levels of concern. Material painted magenta and yellow will be given special attention because those are the international colors for radioactive materials. He described working with the Department of Ecology, Division of Emergency Management, National Oceanographic and Atmospheric Administration (NOAA), and U.S. Coast Guard to conduct public outreach. Public meetings have been heavily attended.

Chuck Matthews, Department of Ecology, explained multi-agency planning, led by Emergency Management, to deal with tsunami debris. He explained how modeling of ocean currents and winds helps predict where and when tsunami debris will arrive on our shores. Some lighter, wind-influenced debris has been found on the Washington coast. Earlier sightings of rafts of debris in the Pacific resulted in predictions of debris hitting our shores. However, those rafts of debris have substantially disbursed. He gave information on how individuals can report things that might appear to be hazardous. Numerous agencies have been involved in planning how to respond for the debris that arrives. Volunteers are being relied on for a big part of beach cleanup. For more details on the two presentations, please refer to materials under Tab 12.

Member Yu asked how debris disposal is being funded. Mr. Matthews explained Ecology has set aside \$100,000 for such purposes through this fiscal year. He said a NOAA grant would help pay for

cleanup during the next biennium. Member Yu asked what Oregon did with the dock it found. Mr. Matthews explained that it was recycled and cost \$84,000 to do so. Vice-Chair Grellner asked about tuna sampling. Mr. Fordham said Oregon State University did some sampling of tuna and provided a split for radiation testing. The results indicate fish are safe to eat.

The Board took a break at 3:15 p.m. and reconvened at 3:30 p.m.

13. PUBLIC TESTIMONY

Ann Clifton, Mercury Awareness Team of Washington, testified that the best way to prevent disease is to strengthen the immune system. She recommended good nutrition, sanitation, and clean water. She said, as a child, she had all the childhood diseases and developed life-long immunity. She said, when she had her babies, the antibodies in her breast milk protected them. She commented that the whole-cell pertussis vaccine has been shown to cause encephalitis in mice. She cautioned against too many vaccinations, in particular combined measles-mumps vaccine. She cautioned that people are being exposed to increasing levels of mercury from many sources.

Audrey Adams, Washington Action for Safe Water, testified about research on the effects of fluoride on the brain. She said prestigious reviews have found evidence of possible adverse effects of fluoride on brain function and lowering of IQ in developing brains. She said scientists recommend additional studies to further investigate this possibility. She asked the Board to stop promoting fluoridation. She asked the Board to notify water districts that the Board has not determined the safety of fluoridation and that new studies indicate possible health risks. She provided written testimony.

Kyle Adams, son of Audrey Adams, testified he has autism and chemicals give him a headache. He said when he takes showers in water with fluoride and eats food with fluoride he gets a headache. When he has a headache, it is hard for him to work. He said that when he was a child, he hurt every day and night until his mother figured out fluoride gave him headaches. He asked the Board to take fluoride out of water. He provided written testimony.

Alli Larkin, Vice President of Washington Action for Safe Water, commented that the Portland City Council voted last month to put fluoride in the city's water system. She said, within 30 days after that vote, opponents gathered more than 43,000 signatures to put the measure up to a public vote. She said, since 2010, 26 communities have rejected water fluoridation. She said people are waking up to oppose water fluoridation. She said Ralph Nader commented in 1971 that the U.S. Public Health service had locked itself into a position on the safety of water fluoridation and considered the matter closed. She said that was an unscientific approach by CDC, based on decisions by a small group of officials in the oral health program at CDC. She asked the Board to be open to other information about water fluoridation.

14. 2013 SBOH MEETING SCHEDULE (taken out of order at 10:40)

Ms. Davis explained the proposed Board meeting schedule for 2013 under Tab 14 of members' packets. The meeting schedule is provided to the Code Reviser's Office and is posted on the Board's website. She said that meeting frequency and locations are determined by the budget. She said that she will investigate the possibility of aligning the June 2013 Board meeting with the location of the Washington State Association of Local Public Health officials meeting in Chelan County.

Motion: *The Board approves the 2013 meeting schedule as presented.*

Motion/Second: *Kutz/Hernandez-Peck. Approved unanimously*

15. BOARD MEMBER COMMENTS

Member Hernandez-Peck reported on a Neighborhood Matters meeting she attended recently in Spokane. Neighborhood Matters sponsored a harvest project that involved members of the refugee and immigrant population. They collected 5,000 pounds of food for the food bank to thank the community for taking them in. Member Yu reminded everyone that Thanksgiving is a good time to consider making a food bank donation.

ADJOURNMENT

Keith Grellner, Vice-Chair, adjourned the meeting at 3:49 p.m.

WASHINGTON STATE BOARD OF HEALTH

John Austin, Chair